

AN ACT

relating to the budget of certain divisions of the Texas Department of Insurance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 401, Insurance Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. SELF-DIRECTED BUDGET FOR CERTAIN DIVISIONS

Sec. 401.251. DEFINITIONS. In this subchapter:

(1) "Actuarial division" means the division within the financial program that conducts actuarial examinations of insurers and other entities regulated by the department and administers state laws relating to the level of reserves required of an insurer.

(2) "Examination cost" means a cost associated with salary, travel, or other personnel expenses associated with the examination of insurers and other entities regulated by the department by the financial examinations division or actuarial division.

(3) "Financial examinations division" means the division within the financial program that conducts financial and market conduct examinations of insurers and other entities regulated by the department.

(4) "Financial program" means the program within the department through which the department regulates the financial and operating conditions of, and issues licenses to, domestic and

1 foreign insurers and other entities regulated by the department.

2 Sec. 401.252. SELF-DIRECTED BUDGET. (a) The senior  
3 associate commissioner of the financial program shall submit to the  
4 commissioner an annual budget of examination costs using generally  
5 accepted accounting principles. Notwithstanding any other  
6 provision of law, the budget may be adopted and approved only by the  
7 commissioner. The commissioner shall approve a budget under this  
8 subsection not later than August 31 of the year in which the  
9 associate commissioner submits the budget to the commissioner.

10 (b) The financial program may not directly or indirectly  
11 cause the Texas Department of Insurance operating account to incur  
12 any examination cost.

13 (c) Subject to any limitations in this code or another  
14 insurance law of this state, the department may set the amounts of  
15 fees required or permitted by statute or rule as necessary to:

16 (1) carry out the functions of the financial  
17 examinations and actuarial divisions relating to the examination of  
18 insurers and other regulated entities; and

19 (2) fund the budget adopted and approved under this  
20 section.

21 (d) Notwithstanding this section, the financial program may  
22 receive funds appropriated from the state to fund costs other than  
23 examination costs.

24 (e) An assessment, fee, charge, or other source of revenue  
25 collected by the financial program relating to the examination of  
26 insurers and other regulated entities by the financial examinations  
27 division or actuarial division shall be deposited to the credit of

1 the account described by Section 401.156(a) for the purposes  
2 described by that section.

3 Sec. 401.253. AUDITS. This subchapter does not affect the  
4 duty of the state auditor to audit the financial program.

5 Sec. 401.254. RECORDS; REPORTING REQUIREMENTS. (a) The  
6 financial program shall keep financial and statistical information  
7 as necessary to disclose completely and accurately the financial  
8 program's receipts and examination costs.

9 (b) The financial program shall submit to the commissioner  
10 and the Legislative Budget Board an annual report that states:

11 (1) the revenue received by the financial program from  
12 assessments and fees collected by the department relating to the  
13 examination of insurers and other regulated entities;

14 (2) the total salary for each financial program  
15 employee who performs examinations of insurers and other regulated  
16 entities;

17 (3) the portion of the salary paid to each employee  
18 from the self-directed budget approved under Section 401.252;

19 (4) the portion of the salary paid to each employee  
20 from funds appropriated to the financial program by the state;

21 (5) the total travel expenses incurred by each  
22 employee who performs examinations of insurers and other regulated  
23 entities;

24 (6) the portion of travel expenses paid for each  
25 employee from the self-directed budget approved under Section  
26 401.252;

27 (7) the portion of travel expenses paid for each

1 employee from funds appropriated to the financial program by the  
2 state; and

3 (8) all other examination costs of the financial  
4 program.

5 Sec. 401.255. MEMBERSHIP IN EMPLOYEES RETIREMENT SYSTEM.

6 Employees of the actuarial division and financial examinations  
7 division are members of the Employees Retirement System of Texas  
8 under Chapter 812, Government Code, and the transition to a  
9 self-directed budget as provided by this subchapter has no effect  
10 on their membership or any benefits under that system.

11 SECTION 2. Subsection (d), Section 401.151, Insurance Code,  
12 is amended to read as follows:

13 (d) In determining the amount of the assessment under  
14 Subsection (c), the department:

15 (1) shall consider:

16 (A) the insurer's total annual premium receipts  
17 or admitted assets, or both, that are not attributable to 90 percent  
18 of pension plan contracts as defined by Section 818(a), Internal  
19 Revenue Code of 1986; or

20 (B) the total amount of the insurer's insurance  
21 in force; and

22 (2) may not consider insurance premiums for insurance  
23 contracted for by a state or federal governmental entity to provide  
24 welfare benefits to designated welfare recipients or contracted for  
25 in accordance with or in furtherance of Title 2, Human Resources  
26 Code, or the federal Social Security Act (42 U.S.C. Section 301 et  
27 seq.).

1 SECTION 3. Section 401.156, Insurance Code, is amended to  
2 read as follows:

3 Sec. 401.156. DEPOSIT AND USE OF ASSESSMENT AND FEE.

4 (a) The department shall deposit any assessments or fees [~~an~~  
5 ~~assessment or fee~~] collected under this subchapter relating to the  
6 examination of insurers and other regulated entities by the  
7 financial examinations division or actuarial division, as those  
8 terms are defined by Section 401.251, to the credit of an account  
9 with the Texas Treasury Safekeeping Trust Company to be used  
10 exclusively to pay examination costs, as defined by Section 401.251  
11 [the Texas Department of Insurance operating account]. Money  
12 deposited under this subsection accumulates and may be disbursed to  
13 the department in a manner consistent with Subchapter F.

14 (b) Revenue that is not related to the examination of  
15 insurers or other regulated entities by the financial examinations  
16 division or actuarial division shall be deposited to the credit of  
17 the Texas Department of Insurance operating account [~~Money~~  
18 ~~deposited under this section shall be used to pay the salaries and~~  
19 ~~expenses of actuaries and examiners and all other expenses relating~~  
20 ~~to examinations of insurers]~~.

21 (c) To the extent that another provision of law conflicts  
22 with this section or a provision of this section, this section or  
23 the provision of this section controls.

24 (d) The department may transfer funds between the account  
25 described by Subsection (a) and the Texas Department of Insurance  
26 operating account as necessary to ensure that funds are deposited  
27 to the correct account and used for the correct purposes. This

1 subsection does not authorize a disbursement or transfer of funds  
2 in a manner that is inconsistent with the purpose of Subchapter F.

3 SECTION 4. Section 651.005, Insurance Code, is amended to  
4 read as follows:

5 Sec. 651.005. DEPOSIT AND USE OF FEES. (a) Except as  
6 provided by Subsection (b), each [~~Each~~] fee collected under this  
7 chapter:

8 (1) shall be deposited to the credit of the Texas  
9 Department of Insurance operating account; and

10 (2) may be used by the department to enforce this  
11 chapter.

12 (b) An assessment or fee associated with examination costs,  
13 as defined by Section 401.251, shall be deposited to the account  
14 described by Section 401.156(a).

15 SECTION 5. Section 843.154, Insurance Code, is amended by  
16 amending Subsection (b) and adding Subsection (b-1) to read as  
17 follows:

18 (b) Except for fees collected under Subsections (e) and (f),  
19 fees [~~Fees~~] collected under this section shall be deposited to the  
20 credit of the Texas Department of Insurance operating account.

21 (b-1) A fee collected under Subsection (e) or (f) shall be  
22 deposited to the credit of the account described by Section  
23 401.156(a).

24 SECTION 6. Section 4151.206, Insurance Code, is amended by  
25 amending Subsection (b) and adding Subsection (c) to read as  
26 follows:

27 (b) The commissioner shall deposit a fee collected under

1 Subsection (a)(1) or (3) [~~this section~~] to the credit of the Texas  
2 Department of Insurance operating account.

3 (c) The commissioner shall deposit a fee collected under  
4 Subsection (a)(2) to the credit of the account described by Section  
5 401.156(a).

6 SECTION 7. (a) To provide a reasonable period for the  
7 financial program, as defined by Section 401.251, Insurance Code,  
8 as added by this Act, to establish a self-directed budget, for the  
9 one-year period following the effective date of this Act the Texas  
10 Department of Insurance shall continue funding the financial  
11 program within the department using money appropriated to the  
12 department out of the general revenue fund and shall deposit to the  
13 credit of the Texas Department of Insurance operating account all  
14 revenue relating to the examination of insurers and other regulated  
15 entities by the financial program. The department shall certify to  
16 the comptroller of public accounts the amounts deposited to the  
17 credit of the operating account under this subsection.

18 (b) On September 1, 2012, on a finding by the comptroller of  
19 public accounts that amounts deposited to the credit of the Texas  
20 Department of Insurance operating account under Subsection (a) of  
21 this section are sufficient to fulfill the purposes of Subchapter  
22 F, Chapter 401, Insurance Code, as added by this Act, the  
23 comptroller shall transfer that amount to the credit of the account  
24 described by Subsection (a), Section 401.156, Insurance Code, as  
25 amended by this Act.

26 SECTION 8. This Act takes effect September 1, 2011.

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President of the Senate

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Speaker of the House

I hereby certify that S.B. No. 1291 passed the Senate on April 20, 2011, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 1291 passed the House on May 19, 2011, by the following vote: Yeas 148, Nays 0, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor